



Rules and Ancillary Document Review Checklist
(This form must be filled out electronically.)

All responses should be in **bold** format.

Document Reviewed (include title) and date last adopted:

- **AD 8211.2 Finance leases (December 3, 1987); and**
- **AD 8211.3 Boomstick rentals (February 19, 1988).**

Reviewer: **Alan R. Lynn**

Date review completed: **June 15, 2000**

Is this document being reviewed at this time because of a taxpayer or business association request? (If "YES", provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Explain the goal(s) and purpose(s) of the document:

AD 8211.2 explains the differences between "finance" and "true" leases, and provides a list of elements that generally exist in a finance lease. This document recognizes that WAC 458-20-211 (Leases or rentals of tangible personal property, bailments) at that time did not distinguish between finance and true leases, and explains how the Department will proceed in an audit situation if a lessor has been treating a finance lease as if it were a true lease for tax purposes.

AD 8211.3 distinguishes between the tax consequences of charges for boomsticks:

- **Used while log towing is in progress; and**
- **Used in storing logs at the location to which they have been towed.**

2. Need:

YES	NO	
X		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	X	Is the document obsolete to a degree that the information it provides is of so little value that the document warrants repeal or revision?
	X	Have the laws changed so that the document should be revised or repealed? (If the response is "yes" that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
X		Is the document necessary to protect or safeguard the health, welfare (budget



		levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)
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Please explain.

3. Related ancillary documents, court decisions, BTA decisions, and WTDs: Complete

Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an ancillary document. Excise Tax Advisories (ETAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered ancillary documents.

(a)

YES	NO	
		Are there any ancillary documents that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
		Are there any ancillary documents that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
		Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that provide information that should be incorporated into this rule?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
X		Should this ancillary document be incorporated into a rule?
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that affects the information now provided in this document?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is "yes" to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

WAC 458-20-211 (Leases or rentals of tangible personal property, bailments) currently distinguishes between finance and true leases and provides a list of factors that generally indicate that a financing lease exists. The rule does not, however, provide any guidance on how to proceed when it is determined that a lessor (and lessee) has been treating a finance lease as a true lease for tax purposes. Leases often cover a number of years. AD 8211.2 should be retained until Rule 211 can be amended to address this issue.

AD 8211.3 should be retained until the information can be incorporated into a rule, presumably the new WAC 458-20-13501 (Timber harvest operations) that the Department anticipates proposing.

**4. Clarity and Effectiveness:**

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities, help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do any administrative changes within the Department warrant repealing or revising this document?

Please explain.

These documents are clear, concise, and providing the intended results. As explained above, they should be retained until the information can be incorporated into a rule.

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statutes that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed to implement ?) If “no”, identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statutes being implemented by this document?

Please explain.

RCW 34.05.230 authorizes state agencies to issue interpretive statements.

6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.

The Department has the sole responsibility of administering the B&O, retail sales, and use taxes in this area.

7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was



		completed when the rule was last adopted or revised.)
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Please explain.

This is an interpretive statement that imposes no new or additional administrative burdens on businesses that are not already imposed by the law.

8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

9. LISTING OF DOCUMENTS REVIEWED: (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, ancillary documents, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented: **To the extent the following apply to charges for rentals of tangible personal property:**

- **RCW 82.04.040—“Sale,” “casual sale”;**
- **RCW 82.04.050—“Sale at retail,” “retail sale”;**
- **RCW 82.04.070—“Gross proceeds of sales”;**
- **RCW 82.04.080—“Gross income of the business”;**
- **RCW 82.04.190—“Consumer”;**
- **RCW 82.08.010—Definitions;**
- **RCW 82.08.020—Tax imposed—Retail sales . . .;**
- **RCW 82.12.010—Definitions;**
- **RCW 82.12.020—Use tax imposed;**

Ancillary Documents (i.e., ETAs, PTBs, and ADs):

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

Administrative Decisions (e.g., WTDs):

Attorney General’s Opinions (AGOs):



Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

10. Review Recommendation:

- ☐ Amend
- ☐ Repeal
- ☐ Leave as is
- ☐ Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)
- ☒ Incorporate ancillary document into a new or existing rule. (Subject of this review must be an ancillary document and not a rule.)

Explanation of recommendation: (If recommending an amendment of an existing rule, provide only a brief summary of the changes you've identified/recommended earlier in this review document.)

AD 8211.2 and 8211.3 should be retained until the pertinent information is incorporated into a revised Rule 211 or new Rule 13501, respectively.

11. Manager action: Date: _____

- ☐ Reviewed recommendation ☐ Accepted recommendation
- ☐ Returned for further action

Comments: